

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. In October 2000 the petitioner obtained an Order of child support against her child's father. The Order provided, *inter alia*, that the father pay \$316 a month in child support and it established an arrearage of child support of \$5,139.57 payable by the father.

3. It appears that the father began paying his monthly obligation as of that date, but he made only a few small payments toward his arrearage.

4. In March 2003 the petitioner again began receiving RUFA benefits. Through October 2003 her monthly benefit amount ranged from \$489 to \$594. During this period OCS collected the father's (apparently sporadic) monthly support payments and applied most or all of them to offset the amount of RUFA benefits it was paying to the petitioner.

5. In October 2003 the father made a lump sum payment to OCS of \$5,031.80, the amount that remained on the arrearages as ordered in October 2000. Although it is not clear from the information submitted by the parties, it appears that there is no dispute that as of October 2003, after subtracting the previous monthly payments from the child's father retained by OCS, PATH had paid the petitioner a total amount of RUFA (in 1996-97 and 2003) that was in excess of the \$5,031.80 arrearage payment. OCS has notified the petitioner that it is applying all the lump sum payment to reimburse PATH for the RUFA payments it has made to the petitioner. The petitioner appeals the distribution of this lump sum payment to PATH instead of to her.

6. When she applied for RUFA benefits in March 2003 the petitioner signed an assignment of her rights to child support and to the Department, including "any and all arrearages owed to me at the time of this assignment". That agreement also stipulated: "The state keeps support amounts only up to the total amount of public assistance that I receive or have ever received."

ORDER

The Department's decision is affirmed.

REASONS

33 V.S.A. § 3903 provides that any payment of RUFA assistance "for the benefit of a dependent child creates a debt due and owing" to the Department. See also W.A.M. § 2330. 33 V.S.A. § 3902(a) provides: "As a condition of eligibility for public assistance, each applicant or recipient shall assign to the department any right to support from a responsible parent which has accrued at the time of the assignment . . ." See also W.A.M. § 2331.

The petitioner has not shown that the net amount of RUFA benefits she received in 1997 and 2003, after regular payments of child support by the father, was less than the lump sum arrearage payment received by OCS in October 2003. Therefore,

it appears that the Department's decision to retain the entire lump sum was consistent with the above state, regulations, and agreement signed by the petitioner.¹ Thus, the Board is bound by law to affirm the Department's decision. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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¹ The petitioner's initial argument in this matter was based entirely on her receipt of assistance in 2003. Inasmuch as she subsequently conceded the receipt of assistance in 1996-97, and did not dispute the Department's accounting of the total amounts of RUFA benefits paid to her, it is not clear what, if any, legal argument she would make regarding the distribution of the October 2003 arrearage payment.